

ORIGINAL



0000120042

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

2010 NOV 16 P 2:24

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

NOV 16 2010

DOCKETED BY

IN THE MATTER OF MIDVALE TELEPHONE  
EXCHANGE INC.'S APPLICATION FOR AN  
AMENDMENT TO ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY.

DOCKET NO. T-02532A-08-0542

PROCEDURAL ORDER

**BY THE COMMISSION:**

On October 17, 2008, Midvale Telephone Exchange Inc. ("Midvale") filed with the Arizona Corporation Commission ("Commission") an application for an amendment to its Certificate of Convenience and Necessity ("CC&N"), to include customer locations within Qwest Communication Corporation's ("QCC's") service area. In the application, Midvale stated that it desires Commission authorization to provide facilities-based local exchange service and toll service to two currently unserved customers located in an area of Yavapai County immediately contiguous to the Long Meadows portion of Midvale's Mill Site Exchange ("extension area").

On November 12, 2008, Qwest Corporation ("Qwest") filed a notice indicating that it had accepted service of process of Midvale's application, as it is Qwest rather than QCC that provides local exchange telecommunications services in the extension area. Qwest also requested that the service list for this matter be revised to include Qwest and exclude QCC.

On November 14, 2008, the Commission's Utilities Division Staff ("Staff") issued a Letter of Insufficiency to Midvale, along with a request for additional data.

On May 7, 2010, a Procedural Order was issued requiring Staff to file an update on the status of this matter, including any appropriate recommendations as to how the matter should be resolved and a statement regarding whether the matter should be administratively closed.

On May 12, 2010, Midvale filed an amended application, in which Midvale continued to identify QCC as the holder of the service area in which the extension area is located. Midvale stated

1 that the amendment changed the description of the extension area and provided updated loop/line  
2 counts. Subsequently, Midvale filed a revised legal description for the extension area.

3 On May 26, 2010, Staff filed a Staff Update stating that Staff was reviewing Midvale's  
4 application and would process it.

5 On June 14, 2010, Midvale filed Responses to Staff's First Set of Data Requests.

6 On June 29, 2010, Staff filed a Letter of Sufficiency stating that Midvale's amended  
7 application had met the sufficiency requirements of A.A.C. R14-2-502 and that the Commission has  
8 150 calendar days to complete its substantive review.

9 On July 1, 2010, a Procedural Order was issued requiring Qwest, by July 30, 2010, to file a  
10 document either requesting to be added to this docket as a joint applicant or explaining why it is not  
11 necessary for Qwest to participate as a party herein. The Procedural Order further permitted Midvale  
12 and Staff to make filings providing input on the need for Qwest to participate as a party herein and  
13 extended the Commission's time frame to issue a decision in this matter by 30 days.

14 On July 30, 2010, Qwest filed Qwest Corporation's Motion to Be Added as a Necessary  
15 Party, and Statement of Position ("Qwest's Motion"), in which Qwest requested to be added as a  
16 necessary party in interest to this proceeding and not to be designated as a joint applicant. Qwest  
17 stated that it believes Midvale's application serves the public interest, and that Qwest is willing to  
18 participate and fully cooperate in the proceeding, but that Qwest is not the moving entity and does not  
19 believe that it should be required to bear the costs of the proceeding. Qwest also noted that Qwest  
20 and Midvale had agreed that the circumstances underlying Midvale's application also exist or may  
21 arise with other portions of Qwest's Prescott Exchange that border Midvale's existing service area.  
22 Qwest stated that Midvale and Qwest agree that it would be more efficient to address these  
23 circumstances in a comprehensive manner in this proceeding by including additional portions of  
24 Qwest's Exchange that could be served more economically by Midvale and further stated that it  
25 understands Midvale is preparing to amend its request.

26 On August 11, 2010, a Procedural Order was issued joining Qwest as a necessary party in  
27 interest in this matter and suspending the time frame in this matter until Midvale filed with Docket  
28

Control either an amendment to its application or a document stating that it was ready to go forward with its application as it stood.

On November 15, 2010, Midvale filed a Second Amended Application, in which it continues to identify QCC as the holder of the service area in which the extension area is located<sup>1</sup> and amends the extension area requested by requesting expansion of its CC&N service area to include all of Section 13, Township 16N, Range 4W (rather than only the southeast quarter of the Section); the southern one-half and northwest one-quarter of Section 23, Township 16N, Range 4W (rather than only part of the southeast one-quarter of Section 23); and the following additional territory:

Within Township 16N, Range 4W: The western one-half of Section 22, the southern one-half and northwest quarter of Section 15, the northern one-half and southwest quarter of Section 14, all of Section 1, all of Section 2, all of Section 11, and all of Section 12; and

Within Township 16N, Range 3W: The western one-half of Section 20, and all of Section 17 except for the Hootenanny Holler Development and that portion of Section 17 north of Williamson Valley Road.

Because Qwest is a necessary party in interest in this matter, it is appropriate at this time to require Qwest to file a response to Midvale's Second Amended Application indicating whether Qwest agrees with the legal description of and supports the expansion of Midvale's CC&N service area to include the larger extension area requested in Midvale's Second Amended Application.

Because Midvale has significantly altered its requested extension area, it is also appropriate at this time to require Staff to file a document indicating whether Midvale's Second Amended Application is sufficient under A.A.C. R14-2-502.

IT IS THEREFORE ORDERED that **Qwest shall, by December 10, 2010, file a response to** Midvale's Second Amended Application, as described above.

IT IS FURTHER ORDERED that **Staff shall, by December 10, 2010, file a document** indicating whether Midvale's Second Amended Application is sufficient under A.A.C. R14-2-502.

IT IS FURTHER ORDERED that **the time frame in this matter remains suspended.**


---

<sup>1</sup> If Midvale disagrees that Qwest is the entity currently authorized to provide local exchange telecommunications services in the extension area, Midvale should make a filing so stating. Alternatively, Midvale should ensure that its future filings correctly identify Qwest.

1 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
2 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
3 *pro hac vice*.

4 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
5 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
6 hearing.

7 DATED this 16th day of November, 2010.

8  
9  
10   
11 SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

12 Copies of the foregoing mailed/delivered  
13 this 16th day of November, 2010 to:

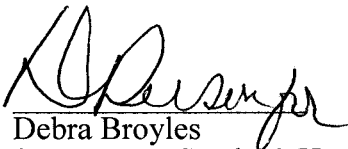
14 Gary H. Horton  
15 Attorney at Law  
16 PMB 447  
17 989 South Main Street, Suite A  
18 Cottonwood, AZ 86326

19 Midvale Telephone Exchange, Inc.  
20 P.O. Box 7  
21 2205 Keithley Creek Road  
22 Midvale, ID 83645

23 Norman G. Curtright  
24 Reed Peterson  
25 QWEST CORPORATION  
26 20 East Thomas Road, 16<sup>th</sup> Floor  
27 Phoenix, AZ 85012

28 Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington Street  
Phoenix, AZ 85007

Steven Olea, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington Street  
Phoenix, AZ 85007

By:   
Debra Broyles  
Secretary to Sarah N. Harpring